

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY  
ORDINANCE COMMITTEE  
MINUTES OF PUBLIC MEETING**

DATE.....December 16, 2003  
TIME.....4:45 P.M.  
PLACE.....COUNTY OFFICE BLDG.  
20 N. 3RD STREET  
LAFAYETTE IN 47901

**MEMBERS PRESENT**

KD Benson  
Jan Mills  
Gary Schroeder  
Mark Hermodson

**STAFF PRESENT**

James Hawley  
Sallie Fahey  
Margy Deverall  
Kathy Lind  
Jay Seeger, Atty

Jan Mills called the meeting to order.

**I. APPROVAL OF DECEMBER 16, 2003 MEETING MINUTES**

The Committee voted by voice vote to approve the minutes from November 18, 2003.

Sallie Fahey presented the document titled Comprehensive Plan-Land Use-Ordinance Revisions Priorities and Commitments to the Ordinance Committee as requested by Steve Schreckengast. She said that the list would also be available at the Area Plan Commission meeting on December 17, 2003.

Kathy Lind informed the Committee that a meeting was held on December 4, 2003 with the Wallace Triangle. She stated that the neighborhood has created a proposal to present to the Committee at the January 7, 2004 meeting. She mentioned that this was a neighborhood that was unwilling to compromise. She said that there were 27 people present at the December 4, 2003 meeting and 14 voted for this proposal, just barely above the majority.

**II. THE 75' MAXIMUM LOT WIDTH IN NBU AMENDMENT: Kathy Lind**

Kathy Lind stated that NBU is the only zone that has a maximum lot width and other zones have a minimum lot width. She explained that the NBU is similar to the CB district because there are zero-foot setbacks on the street frontages, reduced parking standards and no parking is permitted between the building and right-of-way line. She said that parking could be behind the building, off the alley or to the side of the building but never between the building and the street. She presented 7 slides showing 3 different examples of why the maximum lot width requirement should be removed.

Mark Hermodson stated that when this was first brought up, he agreed with it, until someone mentioned a strip mall.

Kathy Lind pointed out that would not be possible because parking is not permitted between the street and the building.

Sallie Fahey explained that if there were an infinite strip center in an NBU zone, it would look like downtown with buildings connected and close to the street.

Mark Hermodson commented that situation would be all right.

Jan Mills asked if the staff wanted a recommendation from the Committee to advise the full Plan Commission to remove the maximum requirement.

Sallie Fahey replied affirmatively. She explained that this topic was discussed at the November 18, 2003 meeting and the Committee members had asked for further explanation.

Mark Hermodson moved that the amendment regarding the 75' MAXIMUM LOT WIDTH IN NBU be sent to the full Plan Commission. Gary Schroeder seconded and the motion carried by voice vote.

Jay Seeger pointed out that the Plan Commission might not recognize this as an official recommendation because there is not a quorum of Ordinance Committee members.

Mark Hermodson stated that this is an advisory vote. He asked for confirmation that this can be passed to the full Commission anyway.

### **III. AMENDING UZO REGARDING WINERIES: Sallie Dell Fahey**

Sallie Fahey stated that there are guest speakers for this topic who would be providing a lot of additional background information on wineries. She introduced Sally Linton as the Marketing Director of the Indiana Wine/Grape Council, a member of the Public Relations Committee of the Indiana Department of Tourism, and on the Advisory Committee for the Indiana Agriculture Tourism Working Group.

Sally Linton, Marketing Director of the Indiana Wine/Grape Council, 745 Agriculture Mall Drive, West Lafayette, IN, gave a background of the wine industry and Wine/Grape Council in Indiana. She reviewed the brochure presented to the Committee. She stated that over 80,000 copies of this brochure are distributed each year, by request only. She presented slides and reviewed the history of the wine industry in Indiana. She mentioned that the Indiana Wine/Grape Council was created in 1989 and they receive 1 cent per every bottle of wine sold in Indiana. She stated that they have a team based in the Purdue Food, Science and Horticulture Department. She said that Ellen Harkness is the wine specialist and works with the grape specialist and Purdue to produce about 80 wines a year. She stated that Indiana currently has 28 wineries, with several more in the planning stages. She said that there has been a 300% increase in grape acreage since 1991 and wine sales have increased 125% in the past five years. She mentioned that there are over 1 million tourists a year visiting Indiana wineries. She reviewed some of the Indiana wineries and recapped their sizes, amenities, sales, types of wines made, diversity of owners and locations. She recapped some of the activities and special events throughout the State. She introduced Rick Black, who has been learning and volunteering at all of the special events. She stated that he had a background in business and his wife, Kathy, was a schoolteacher. She stated that as an amateur wine maker, he won the Indiana International Wine Competition.

Rick Black, 3913 Kensington Drive, Lafayette, IN, through his Power Point presentation told the story of the first time that he and his wife visited the Napa Valley wineries. He pointed out that wineries are located in all 50 states and not just New York and California. He stated that wineries build tourism, which financially, positively affects the travel, lodging, restaurant and merchandising industries. He recapped some of the reasons people visit wineries. He pointed out that Indiana wine sales are primarily based on direct sales rather than wholesale distribution. He stated that the number of tourists who visit wineries is rather small; therefore public and private events have become their stock-in-trade. He gave a list of different Wine/Grape Council events throughout the State, totaling 155 events by 11 wineries. He stated that an Indiana Farm Winery is an Indiana Tourism Site with several business activities embedded in its operation. He reiterated that an Indiana Farm Winery generates tourism and this year earned 34 million dollars. He reviewed the definition of an Indiana Farm Winery, as presented in his handout. He said that comparisons to other businesses were not only difficult but also unfair to the wineries. He stated that to reconfigure its activities or methods of operation to fit a preconceived notion would reduce its effect as a contributing business within the community.

Jan Mills asked if there was additional information that Rick Black would like to point out.

Rick Black stated that through conversations with Sallie Fahey, they determined that the UZO did not take wineries into account. He said that in order to determine what should be used, they referred to the standard for the California wineries and found that SIC code to be for heavy industrial use and not tourism. He stated that about a year ago, Sallie Fahey had prepared an amendment that included many restrictions that he thought was fair. He mentioned that Sallie Fahey had taken this proposal in for a review and even more restrictions were added. He said that he and Sallie Fahey worked on another proposal about a month ago that was even more restrictive. He mentioned that he was surprised as to how many restrictions were included but concluded that the restrictions were for protection due to past abuse of the UZO. He said that due to that, his approach has been to provide education and information about wineries and what they offer. He stated that it is appropriate that the wineries amendment starts in Tippecanoe County, since the UZO is the first of its kind in the State. He mentioned that the last thing he wants to do is have a negative ordinance. He commented that it was interesting that there are 27 wineries in the state and no ordinances regarding them.

Jan Mills asked what most of the wineries in Indiana are currently zoned.

Sallie Fahey stated that she did not have a lot of information on other communities. She mentioned that Monroe County, where Oliver Wineries is located, has a zoning ordinance, but she did not know what zone was being used. She said that the Thomas Winery in Indianapolis was probably either industrial or commercial; the winery in Carmel was probably commercial and the ones in Madison were hard to gauge because it is an historic area, but probably some kind of commercial zone.

Sally Linton stated that a lot of the wineries are in agricultural areas in order to promote rural tourism. She said that Sallie Fahey mentioned the only few that are probably in commercial zones. She said that the majority of wineries are not commercial.

James Hawley stated that most of the counties from Louisville to the west do not have zoning ordinances.

Mark Hermodson stated that the big issue is definition, in order to be fair to other business in the County. He gave the example of restaurants starting to open up in the rural areas. He said that he was in favor of an ordinance that supported the type of establishment they were referring to. He stated that in order to accomplish that, the definitions would have to be very well thought out and a lot of care put into them. He suggested using Rick Black's list of 10 features to define a winery with the clause that all 10 features are met. He asked if that would be an acceptable definition.

Rick Black pointed out that he specifically did not list restaurants as a use.

Mark Hermodson pointed out that the wineries still served food.

Rick Black stated that it is mostly catered food.

Mark Hermodson pointed out that it is still commercial serving of food. He said that he was just trying to find away of distinguishing what a true winery is.

Rick Black pointed out that the Federal and State regulations cover that very well. He mentioned that at the last meeting Jay Seeger had prepared a list of all the State rules that made the determination of what a winery is.

James Hawley pointed out that the Commission needed to be careful that they do not solely rely on regulations that are beyond the control of Tippecanoe County. He stated that standards that regulate land use within Tippecanoe County must be tailored for local regulations. He reiterated that they could not rely on State or Federal regulations that would not be enforced. He said that this should be considered as a land use. He stated that equal opportunity, restrictions, protection, treatment and impacts also need to be considered.

Mark Hermodson agreed with James Hawley. He stated that if this was to be successful, there should be a list of characteristics that must be met.

KD Benson suggested growing grapes as a requirement.

Rick Black pointed out that would be a vineyard. He stated that a winery would process wine and juice. He said that they might have a sample vineyard just for tourism. He stated that there are three vineyards in Tippecanoe County.

Sally Linton pointed out that most wineries start out small and most do not start with a restaurant or catering. She said that they might start out with a refrigerated section of cheeses or breads, working in conjunction with a local bakery. She stated that would limit them on the Health Department regulations and would not be full blown commercial. She said that as the business grows, restaurant or catering could be added later.

Rick Black pointed out in Sallie Fahey's proposal, it states that unless it is in a commercial area, a restaurant would not be permitted in a winery, only catered food.

Sallie Fahey stated that the way she approached this was to, by definition, limit a winery enough to make it easy to obtain approval by right or special exception in most locations. She suggested that it could also be, by definition, complete for all features but extremely difficult to gain approval in most locations. She explained that the two choices are either to limit the land use so that it is acceptable in more places or the land use is not limited but is acceptable in very few places. She said that some of the concerns are that a winery becomes primarily a reception hall and the wine is secondary.

Rick Black pointed out that trying to control these issues by limiting the number of people and events may be addressing the symptom and not the problem. He stated that if there is a deeper problem that should be addressed rather than attacking the way the winery operates. He mentioned that the public and private events are what keep a lot of the wineries in business. He commented that tourism is very limited which is why other events are needed. He pointed out that there are not wineries within a 60-mile radius of Lafayette, the closest being Valparaiso or the south side of Indianapolis. He mentioned that the lack of competition is another reason they wanted to start a winery here.

Sally Linton pointed out that wineries are popular for tourism and wedding receptions because of the atmosphere and lifestyle they represent and therefore should not be in an industrial area. She stated that Bloomington, IN would be a comparable comparison and Oliver Winery is the second largest attraction, next to IU.

Jan Mills stated that the tourism is not a concern. She said that the concern is what impact this would have on the land use around it. She stated that everyone is in favor of more tourism, but adjoining land uses must be taken into consideration.

Mark Hermodson asked how it should be defined to ensure that other catering establishments don't try to claim that they are a winery. He said that his main concern was defining what a winery is and still be fair to other businesses. He stated that the impact that this would have on neighbors in terms of traffic and activity is only valid to a point. He used large farms as an example since they generate a lot of traffic and noise. He stated that there is an appropriate place for this, and the concern is how to define it and get it completed without negatively impacting other businesses.

Ellen Harkness, 745 Agriculture Mall Drive, West Lafayette, IN, stated that there is a core of existing legislation that defines a winery, which states that if they are not a licensed winery they could not be considered in that category. She said that it is a very complicated Federal process to obtain a winery license. She suggested that the wording "licensed winery" be worked into the definition.

Sallie Fahey stated that is an important point, but it does not cover the concern of land uses such as special events or receptions. She gave an example that an event in a very rural area could have 6,000 people in attendance.

Sally Linton pointed out that the event Sallie Fahey was referring to was a statewide event that included 15 different participating wineries.

Sallie Fahey stated that even an event that hosted 1,000 people in rural Tippecanoe County could be a disaster.

James Hawley stated that a regular event on some roads might be totally inappropriate, while the same event might be appropriate at other locations. He said that it is the location and impact on surrounding properties that needs to be considered.

Mark Hermodson pointed out that he was referring to a special exception clause.

James Hawley mentioned that a special exception might be the use that has the most regulatory authority, provided it was in the proper zone to begin with.

Mark Hermodson stated that it could be in a commercial zone but the debate was whether it could be in an AG zone.

Sallie Fahey stated that there was not a concern with placing a winery, with any definition, in a GB zone. She said that the question is if the definition of what a winery is should change depending on what zone it is in. She stated that the next question is whether it should be allowed by right or special exception.

KD Benson pointed out that the other extreme could be a winery that is a bottling factory. She said that that a bottling factory would not be high on tourism, but a heavy industrial use.

Jan Mills and Mark Hermodson replied that would have to be in an industrial zone.

KD Benson asked about other places that grow things but also have tourists and visitors, such as a Christmas tree farm or a pumpkin patch. She asked how they were zoned.

Jan Mills asked if those types of places had to have special exceptions.

James Hawley replied negatively. He pointed out that those specific examples were in other counties and there was not much regulation in those areas. He stated that those places were almost purely agricultural and did not operate all year. He said that an annual event is something that is already addressed in the ordinance, but not a perpetual large volume draw.

Ellen Harkness stated that bottling wine was a very good point and a concern. She pointed out that bottling was a different license. She suggested restricting the ordinance to " farm winery license. She explained that the farm license is limited to wine produced on site.

KD Benson asked if the farm license would also limit the amount that could be produced.

Ellen Harkness replied affirmatively.

Jan Mills commented that those were good points.

James Hawley pointed out that Rick Black was not interested in the bottling aspect. He stated that bottling might be a concern in the future when the industry starts to grow, but not at this time.

Sallie Fahey pointed out that at this time Rick Black did not intend to grow grapes. She explained that he would be creating his own wine from juices and bottling and labeling them.

Rick Black stated that was correct. He said that he currently has a grape press that he will be using. He pointed out that the tourist attraction that brings in 6,000 people is an extreme. He said that a situation of that kind might be handled by a different piece of legislation such as a festival permit. He said that he did not agree with the ordinance limiting the number of people permitted, since that is already covered by the fire department regulations. He pointed out that large festivals are too overwhelming and require too much risk and liability.

Jan Mills stated that was understandable. She explained that when a new ordinance is put into place every single aspect needed to be considered, whether it is likely to happen or an extreme case.

Mark Hermodson stated that the ordinance very often has attendance limitations and parking requirements. He said that even though the fire department regulates the number of people in attendance at public events, there should be some correlation between the number of people that could fit on a property and the parking etc.

Rick Black pointed out that in Sallie Fahey's proposed ordinance, attendance, number of events and parking were all addressed. He mentioned that this was more regulation than there needed to be.

James Hawley gave some examples of special events that are unregulatable. He stated that a regular set of rules that addressed every possible situation was needed to ensure the general health, welfare and safety of the community are taken into account.

Sallie Fahey pointed out that some helpful terms were mentioned such as "event" "special event" and "festival". She mentioned that there seemed to be a general consensus that festivals were more problem than they are worth. She suggested distinguishing between a special event and a festival by definition in the ordinance and then prohibiting festivals for wineries in AG zones.

Rick Black stated that might be acceptable depending on what the definitions said. He reiterate that it would probably be acceptable, but stressed he would have to review the definitions in order to have a distinct opinion.

Sally Linton suggested that a festival be defined as a multi-faceted event.

Jan Mills stated that the specifics of the definitions could be negotiated.

Mark Hermodson stated that Tippecanoe County would benefit from a wine festival. He gave an example of a wine festival in Europe to demonstrate that it belongs downtown and not in an AG zone.

Sally Linton agreed that a city atmosphere was better for a festival. She said that her concern was that if an event were limited in attendance, it would be impossible to determine how much advertising to do. She mentioned that 50 people is not very many and the majority of the wineries depend on in-tasting room sales.

Sallie Fahey proposed that special events would not have a limit on attendance, but limited to how many could be held a year. She said that business events would have an attendance limit because they could be by invitation only.

Rick Black stated that the difference that Sallie Fahey was referring to was between a private and public event.

Sallie Fahey stated that a public event would be one where attendance could not be controlled and should be limited to a certain number per year. She said that normal business events such as a dinner or wedding reception would be limited by attendance and not by the number held per year. She asked Rick Black to describe his definitions of an event, special event and a festival.

Rick Black stated that he did not agree with the limitations of special events or public events and private events.

Sallie Fahey explained that one would be limited to attendance not frequency and the other limited to frequency and not attendance.

Rick Black stated that what he did not agree with was that public events were not part of normal business. He explained that most of the events held by other wineries were public events, between 6-47 events per year. He stated that was a major source of income for a winery and they would be restricting the growth of the business.

Sallie Fahey stated that 47 public events with unlimited attendance, in an AG zone would not be good land use planning. She said that the same circumstances in a commercial zone would be acceptable. She said that the limitation would be by location. She stated that if the preferred location was in an AG zone, then the concern would be how it impacts the other areas.

Rick Black stated that a winery is an agricultural business and it is a food product. He pointed out that if he lived in an AG zone, then he would qualify as a home occupation.

James Hawley stated that he would fall under a rural home occupation that would allow only one employee outside of the family.

Sallie Fahey and Mark Hermodson pointed out that in that circumstance, no drive up business would be allowed.

Rick Black asked what a fruit stand would fall under.

Mark Hermodson stated that there is a provision for selling certain products that are in season.

Sallie Fahey pointed out that that provision was limited to products grown on the property. She stated that if it was a vineyard then grapes could be sold on the property.

James Hawley stated that it was products grown and not manufactured. He said that when special event regulations are created, it allows other things to creep in. He commented that people who live in rural areas have certain expectations of peace and quiet and they understand daily farm business but not 250 cars on their road. He stated that the first time that happens there would be an outcry to the Zoning Enforcement Officer and the County Commissioners. He explained that residents' rights have to be protected because the impact of the winery is much greater than an agricultural impact.

Sally Linton suggested that public events with unlimited attendance be restricted to 6 per year and private and special events could be limited in attendance but unlimited in frequency. She explained that some public events such dinners and murder mystery parties require reservations and have approximately 50 in attendance. She said that they were still public because they are advertised, but limited in attendance by reservations.

Sallie Fahey stated that the current proposal is that the number of events is unlimited so long as they have 50 people or less.

Sally Linton asked if they could be public or private.

Sallie Fahey stated that they could be public, but attendance would be limited to 50 people. She said that a special event is any event that is more than 50 people and the proposal currently states that they are limited to 6 days a year. She explained that the proposal specifically states days and not events because one event could go for an entire month or every weekend of a month.

Sally Linton suggested 12 days a year so that something could be planned every month to get business up throughout the year.

Rick Black pointed out that in the proposal the term “open to the public” would have to be removed.

Sallie Fahey suggested change the wording to “by reservation” or “by ticket sales” instead. She said that the first thing that has to be decided is the definition and characteristics of a winery. She listed the features and characteristics of a winery that she felt were most important and that every one agreed on: making the wine; selling the wine; wine tasting; wine tours and sales of wine accessories not produced on site. She stated that the features and characteristics that were in disagreement were all the extras: dinners, receptions, small events, large events and frequency. She said that the other point that needed to be negotiated was in what zones it should be allowed and in what zones it should be by special exception. She suggested that the discussions on the unresolved issues be addressed in the Ordinance Committee meetings with public input.

Rick Black pointed out the differences and similarities between a tourist attraction and a banquet hall. He said that a winery should not be equivalent to any other kind of business.

Jay Seeger stated that when creating definitions, it also must be considered as to what a banquet hall has to do to be considered a winery. He pointed out that State licensed wineries have maximum amount of production limitations but not minimum. He explained that if a facility bottles 5 bottles per year that may entitle them to all the special events of a winery.

Rick Black referred to the Federal government publications that are very strict and detailed. He pointed out some of the requirements of obtaining a license including a FBI background check of the owner, an inspection of the facility and the expense of all the permits.

Jan Mills stated that since this all had to do with obtaining a license, including the license as a requirement might help some of these issues.

Jay Seeger stated that it might help some of it but not all.

Jan Mills stated that this discussion would have to be continued.

Sallie Fahey stated that the January 7, 2004 meeting would be addressing the Wallace Triangle rezoning. She said that the next available date for the winery discussion would be January 20, 2004.

Rick Black thanked the Committee for allowing him to speak and make his presentation.

Sallie Fahey asked the Committee what kind of preparation she should do for that meeting.

Mark Hermodson stated that the points of contention should be the focus of the next meeting. He asked for staff's opinion on other rural uses that generate a lot of traffic such as golf courses with clubhouses or driving ranges. He said that he wanted to make sure everything was fair to other business and still find a way to accommodating a winery.

KD Benson asked the staff to obtain copies of the licensing definitions and the Federal requirements.

#### **IV. CITIZEN COMMENTS**

KD Benson thanked Jan Mills for her service and commended her work as the chairperson.

#### **V. ADJOURNMENT**

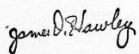


Respectfully submitted,



Michelle D'Andrea  
Recording Secretary

Reviewed by,



James D. Hawley, AICP  
Executive Director